

Significant Legislative Rule Analysis

chapter 246-915 WAC--Physical Therapists and Physical Therapist Assistants

Amending existing rules and adopting new sections to identify one-time training for suicide assessment, screening, and referral, and to adopt standards for obtaining an endorsement to perform spinal manipulation and manipulative mobilization of the spine and its immediate articulations.

February 10, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The Board of Physical Therapy (board) is proposing new rules to implement Engrossed Substitute House Bill (ESHB) 2160 (chapter 116, laws of 2014). The law authorizes physical therapists (PT) to do spinal manipulation and manipulative mobilization of the spine and its immediate articulations after they have received an endorsement from the department. The board is proposing rules that define the qualifications required for a licensed PT to be a clinical supervisor.

The board is also proposing rules to implement ESHB 2315 (chapter 7, laws of 2014). The propose rules identify the one-time training requirements for physical therapists and physical therapist assistants in suicide, screening, and referral.

Background

Spinal Manipulation

ESHB 2160 expands the scope of practice of physical therapists to perform spinal manipulation once issued a spinal manipulation endorsement by the Secretary of Health (secretary). The law also establishes the education and training requirements needed to receive an initial endorsement to perform spinal manipulation and manipulative mobilization of the spine. Lastly, the law establishes the continuing education and standards of care requirements for those providers who receive this endorsement.

Prior to the passing of ESHB 2160, the state of Washington was the only state that had a specific prohibition against spinal manipulation by a PT. Effective July 1, 2015, the secretary may issue a spinal manipulation endorsement to a PT as outlined in the statute. The PT must be a full-time, orthopedic, post-graduate with direct patient-care experience averaging at least 36 hours per week for at least one-year, and fulfill several other requirements including training and supervised experience by a clinical supervisor.

The law requires PTs to consult with a non-PT healthcare practitioner who is authorized to perform spinal manipulation if services go beyond six treatments. The law also prohibits PTs

from delegating spinal manipulation. Physical therapists holding a spinal manipulation endorsement are also required to complete a minimum of 10 hours of continuing education (CE) in spinal manipulation. Finally, the law prohibits PTs from advertising that they perform spinal manipulation, manipulative mobilization of the spine, chiropractic adjustment, spinal adjustment, maintenance or wellness manipulation, or chiropractic care of any kind.

The board developed these proposed rules collaboratively with key stakeholders, interested parties, and other professions. Two stakeholder workshops were held on August 18, 2014, and October 20, 2014. These proposed rule duplicates language directly from the statute, which identifies the education and training requirements required to receive an initial endorsement to perform spinal manipulation and manipulative mobilization of the spine. The proposed rule also restates the continuing education and standards of care requirements for those providers who receive the endorsement. The board is proposing new rules that define the qualifications required for a licensed PT to be a clinical supervisor.

Suicide Assessment, Screening and Referral

The proposed rule implements RCW 43.70.442, enacted in 2014 by Engrossed Substitute House Bill (ESHB) 2315, and which one-time suicide prevention training requirements for physical therapists and physical therapist assistants (physical therapy practitioners). ESHB 2315 directs the board to adopt rules requiring physical therapists and physical therapist assistants to complete a one-time training in suicide assessment, treatment, and management, which must be approved by the board. The training must be at least six-hours in length unless the board determines that training that includes only screening and referral elements is appropriate for the profession, in which case the training must be at least three-hours in length. The board determined that a minimum of three-hours of training in suicide assessment, screening, and referral was appropriate for the physical therapy profession and is the least burdensome for practitioners. This decision was based on the fact that the suicide prevention training will not include treatment and management training components, as this is not within the physical therapy scope of practice. And while ESHB 2315 permitted some exemptions from the training based on practitioners having limited or brief patient contact, the board chose not to exempt any practitioners from the training requirement as there are very few practitioners who have brief or limited patient contact and the requirement to complete a one-time training is not a burden to practitioners.

Is a Significant Analysis required for this rule?

Yes, as defined in RCW 34.05.328, WAC 246-915-382 Spinal Manipulation- Clinical Supervisor will require a significant analysis. However, the department has determined that no significant analysis is required for the following portions of the rule.

Table: Non-Significant Rule Identification

#	WAC Section	Section Title	Reason
1	WAC 246-915-380	Spinal Manipulation- Endorsement Effective Until June 30, 2020	Rules adopting, incorporating or referencing Washington state statutes, without material change are exempt.

2	WAC 246-915-381	Spinal Manipulation-Endorsement Effective July 1, 2020	Rules adopting, incorporating or referencing Washington state statutes, without material change are exempt.
3	WAC-246-915-086	Suicide assessment training standard	Rules adopting, incorporating or referencing Washington state statutes, without material change are exempt.

The remainder of this document will focus on those portions of the proposed rule that do require a significant analysis.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

Spinal Manipulation

ESHB 2160 (chapter 116, laws of 2014) expands the scope of practice of physical therapists to perform spinal manipulation. The board proposed rules that restate the education and training requirements identified in the legislation that was codified in 2014, which are needed to receive an initial endorsement in order to perform spinal manipulation and manipulative mobilization of the spine. Continuing education and standards of care requirements identified in the bill are also restated in the proposed rules.

1. Establishes clinical supervisor qualifications.
2. Identifies the education, training, and continuing education requirements for a physical therapist to receive and maintain a spinal manipulation endorsement.

Suicide Screening and Referral

The legislature stated in ESHB 2315 its intent to educate PTs, PTAs, and other health care practitioners in suicide assessment, treatment and management in order to help lower the suicide rate in Washington.

The following are the statute's specific objectives, implemented by these proposed rules:

1. Establishes the required hours of training;
2. Specifies the standards a program must meet to qualify as a suicide prevention training program.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

Spinal Manipulation

ESHB 2160 expanded the scope of practice of physical therapists to allow them to perform spinal manipulation if they meet certain criteria. The legislation established the education and training, including supervision, requirements for PTs to receive an initial endorsement to perform spinal manipulation and manipulative mobilization of the spine. To implement the law the board is proposing new rules that define the qualifications required for a licensed PT to be a clinical supervisor. If the qualifications are not in rule, then the board will not be able to enforce them.

Suicide Screening and Referral

ESHB 2315, codified in chapter 43.70 RCW, directs the board to adopt rules to implement one-time training requirements in suicide assessment, treatment, and management for PTs and PTAs. The training must be at least six-hours in length unless the board determines training that including only screening and referral elements is more appropriate for the profession, in which case the training must be at least three-hours in length. The number of hours must be established in rule in order to establish consistency and be enforceable. The proposed rules also specify the standards a program must meet to qualify as a suicide prevention training program pursuant to ESHB 2315, to establish consistent standards and to be enforceable these requirements must be established in rule.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The components of the significant rules are discussed below.

WAC 246-915-085 – Continued Competency

ESHB 2315 directs the Board of Physical Therapy (board) to require physical therapists and physical therapist assistants to complete a one-time training in suicide assessment, screening, and referral that must be approved by the board. The training must be at least six-hours in length unless the board determines that training that includes only screening and referral elements is appropriate for the profession, in which case the training must be at least three-hours in length. After consideration, the board determined that three-hours of training in suicide assessment, screening, and referral was sufficient largely because physical therapists do not “treat and manage” suicidal patients, based on their scope of practice.

WAC 246-915-382 – Spinal Manipulation – Clinical Supervisor

The ESHB 2160 established the following requirements to qualify as a clinical supervisor:

- Must be a licensed physical therapist with an endorsement;
- Must be a licensed physical therapist with an advanced certification for which training requirements are commensurate with the training requirements in the statute and duplicated in rule; and
- Identifies the programs that are considered commensurate with the training requirements listed in statute and duplicated in rule.

Subsection (1) provides the qualifications of a clinical supervisor and also clarifies which training programs are considered commensurate with the training requirements for a physical therapist holding an advanced certification. The board worked with stakeholders to develop the requirements for a person to qualify as a clinical supervisor. The Physical Therapy Association of Washington (PTWA) researched this issue and provided a list to the board of acceptable advanced practice programs. The board agreed with the list but added language indicating “other certifications approved by the board” so that other advanced practice programs could be considered at a later date.

The department determined that most of the costs apply to the licensed physical therapist that is seeking the endorsement. However, as shown above, the benefit of establishing appropriate requirements for PTs to serve as clinical supervisors, so that they can provide adequate oversight, and the benefit of requiring an appropriate amount of CE so that practitioners keep up with current industry standards but not overreach their scope of practice outweighs the costs. Therefore the total probable benefits of the rule exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The board initially considered a rule that only listed the approved certification programs. They elected to add a category entitled “Other certifications approved by the board” to allow those deemed qualified in the future to get approval. The board also evaluated whether PTs should take a six-hour or a three-hour course on suicide prevention. Because of the limited scope of practice for PTs who do not treat or manage clients with suicidal tendencies, the board elected to propose a three-hour course.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The rule does not impose more stringent performance requirements on private entities than on public entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule does not differ from any applicable federal regulation or statute.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

There are no federal, local, or other state laws addressing CE in suicide prevention for physical therapy practitioners.